

Message Text

CONFIDENTIAL

PAGE 01 CANBER 05859 260751Z

17

ACTION SCI-06

INFO OCT-01 EUR-25 EA-11 ISO-00 IO-14 CIAE-00 COME-00

DODE-00 EB-11 FMC-04 INR-10 NSAE-00 RSC-01 CG-00

COA-02 DLOS-06 OIC-04 L-03 INT-08 TRSE-00 CEQ-02

EPA-04 OMB-01 NSF-04 DOTE-00 ACDA-19 USIE-00 SSO-00

INRE-00 NSCE-00 PM-07 H-03 NSC-10 PA-04 PRS-01 SPC-03

SS-20 DRC-01 /185 W

----- 083417

O 260713Z OCT 73

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC IMMEDIATE 1897

INFO AMEMBASSY LONDON IMMEDIATE

C O N F I D E N T I A L CANBERRA 5859

EO 11652: GDS

TAGS: IMCO PBOR ETRN SENV

SUBJ: IMCO MARINE POLLUTION CONFERENCE: LOS ISSUES

REF: A) STATE 209908; B LONDON 12260

1. BEGIN SUMMARY: ON OCT 26 LOOMES AND GILCHRIST OF LEGAL DIVISION, DFA, WERE PRESENTED WITH AIDE MEMOIRE BASED UPON PARA 5 REF B. BOTH SEEMED FULLY CONVERSANT WITH USG POSITION ON MATTER. THEY STATED, HOWEVER, THAT AUSTRALIAN DELEGATION HAD ALREADY VOTED IN SUPPORT OF CURRENT WORDING OF ARTICLE 8 AND THEY COULD NOT GIVE EMBOFF ANY HOPE THAT THIS POSITION OF SUPPORT FOR ARTICLE 8 WOULD BE CHANGED. END SUMMARY.

2. EMBOFF PRESENTED AIDE MEMOIRE BASED UPON PARA 5 LONDON REFTEL TO LOOMES AND GILCHRIST OF LEGAL DIVISION, DEPARTMENT OF FOREIGN AFFAIRS MORNING OCT 26. BOTH OFFICERS ARE FULLY CONVERSANT WITH LOS MATTERS. LOOMES SERVED ON AUSTRALIAN DELEGATION TO LOS CON-
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CANBER 05859 260751Z

ERENCE IN LATE 1950'S AND FOR PAST TWO YEARS HAS BEEN

HEAD OF LEGAL DIVISION OF DFA. GILCHRIST ATTENDED RECENT LOS CONFERENCE IN JULY/AUGUST 1973. BOTH UNDERSTAND AND APPRECIATE USG POSITION WITH REGARD TO LOS NEGOTIATIONS AND NEGOTIATIONS IN IMCO. THEY WERE NOT SURPRISED BY CONTENT OF AIDE MEMOIRE AND INDICATED THEY HAD BEEN EXPECTING APPROACH FROM EMBASSY ON SUBJECT OF ARTICLE 8 OF DRAFT CONVENTION ON MARINE POLLUTION.

3. AFTER READING AIDE MEMOIRE, GILCHRIST ELABORATED GOA CONSIDERATION OF ARTICLE 8. HE STATED CURRENT VERSION OF ARTICLE 8 APPEARED TO HIM TO BE CONSIDERABLE IMPROVEMENT OVER ORIGINAL DRAFT ARTICLE. IN COURSE OF CONVERSATION HE IMPLIED AUSTRALIAN DELEGATION HAD HAD SOME PART IN "HONING DOWN" GENERAL LANGUAGE OF ARTICLE TO BE MORE RESTRICTIVE. IN THIS CONNECTION HE REFERRED TO: A) PHRASE "WITHIN ITS JURISDICTION" APPEARING WITHIN BOTH FIRST AND SECOND PARAGRAPHS OF ARTICLE 8 WHICH HE STATED INDICATED THAT MATTER OF EXTENT OF JURISDICTION FOR STATES WAS STILL LEFT FOR LOS CONFERENCE TO DETERMINE AND B) THAT PHRASE IN PARA 1 "WHERE SPECIFIC CIRCUMSTANCES SO WARRANT" AND IN PARA 2 PHRASES "IN ACCORDANCE WITH ACCEPTED SCIENTIFIC CRITERIA" AND WHERE THE "ENVIRONMENT (IS) EXCEPTIONALLY VULNERABLE" INDICATED TO HIM THAT STATES IMPOSING RESTRICTIONS UPON SHIPS IN THEIR TERRITORIAL WATERS WOULD HAVE TO PROVE THE NECESSITY FOR ENFORCING STANDARDS MORE RIGOROUS THAN THOSE ACCEPTED BY CONTRACTING PARTIES TO LOS CONVENTION. IN SUM, GILCHRIST STATED THAT GOA DELEGATION HAD VOTED IN FAVOR OF PRESENT VERSION OF ARTICLE 8 AS BEING CONSISTENT WITH AUSTRALIAN NATIONAL INTERESTS WITH REGARD TO POLLUTION AND THAT HE SAW LITTLE PROSPECT THAT THIS POSITION WOULD BE CHANGED. GILCHRIST NOTED THAT WHILE INSTRUCTIONS TO AUSTRALIAN DELEGATION IN LONDON HAD NOT YET BEEN DISPATCHED, HE COULD HOLD OUT LITTLE HOPE THAT AUSTRALIAN POSITION WOULD SUPPORT U.S. CONTENTION THAT ARTICLE 8, IF ACCEPTED, WOULD SOMEHOW DEROGATE FROM AUTHORITY FROM LOS CONFERENCE TO DEFINE

CONFIDENTIAL

PAGE 03 CANBER 05859 260751Z

STATE'S JURISDICTION IN THIS MATTER.

4. IN RESPONDING TO GILCHRIST PRESENTATION, EMBOFF NOTED USG HAD CONSISTENTLY HELD POSITION THAT SEPARATE ITEMS WITH REGARD TO LOS MATTERS SHOULD NOT BE NEGOTIATED OUTSIDE LOS CONFERENCE. U.S. SIDE HAS ALWAYS TREATED LOS NEGOTIATIONS AS "PACKAGE" AND THAT INDIVIDUAL SUBJECTS SHOULD NOT BE TAKEN OUT

OF THAT CONTEXT. IN THIS CONNECTION EMBOFF REFERRED TO FINAL SENTENCE OF PARA 5(C) REF B. EMBOFF ALSO POINTED OUT THAT USG IS CONCERNED WITH INDIVIDUAL STATES EXERCISING POLLUTION CONTROL IN ARCHIPELAGOS AND STRAITS. BOTH GILCHRIST AND LOOMES APPEARED FAMILIAR WITH THESE ARGUMENTS AND MADE NO SPECIFIC COMMENTS.

5. GILCHRIST STATED THAT DURING HIS PARTICIPATION IN RECENT LOS CONFERENCE, HE BECAME THOROUGHLY FAMILIAR WITH U.S. POSITION ON LOS. HE STATED THAT ONLY WAYS HE COULD SEE OUT OF IMPASSE ON ARTICLE 8 FROM USG'S VIEWPOINT WOULD BE A) TO AGREE TO FURTHER AMENDMENT OF CURRENT ARTICLE 8 TO TAKE CARE OF SPECIFIC U.S. CONCERNS OR B) TO EXPLAIN TO INTERESTED PARTIES THE POLITICAL PROBLEMS WHICH USG FORESAW IN INTERNATIONAL SENSE WHICH WOULD RESULT FROM ACCEPTANCE OF ARTICLE 8 AS IT NOW STANDS. IN LATTER CONNECTION GILCHRIST STATED HE HAD RECEIVED HINTS DURING LOS NEGOTIATIONS THAT USG HAD SUCH POLITICAL PROBLEMS BUT HE WAS NOT ABLE TO ELABORATE ON THEM.

6. IN SUM, BOTH LOOMES AND GILCHRIST EXPRESSED UNDERSTANDING OF U.S. POSITION BUT FRANKLY STATED THEY COULD NOT SEE HOW GOA POSITION IN SUPPORT OF ARTICLE 8 WOULD BE CHANGED. ASSUMPTION UNDERLYING THIS STATEMENT IS THAT GOA WILL INSTRUCT ITS IMCO DELEGATION TO SUPPORT DRAFT TEXT OF ARTICLE 8 AS IT NOW STANDS. GREEN

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 26 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: smithrj
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973CANBER05859
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS GREEN
Errors: N/A
Film Number: n/a
From: CANBERRA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731010/aaaaahcq.tel
Line Count: 144
Locator: TEXT ON-LINE
Office: ACTION SCI
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A) STATE 209908; B LONDON 12260
Review Action: RELEASED, APPROVED
Review Authority: smithrj
Review Comment: n/a
Review Content Flags:
Review Date: 17 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17-Oct-2001 by kelleyw0>; APPROVED <13-Dec-2001 by smithrj>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: IMCO MARINE POLLUTION CONFERENCE: LOS ISSUES
TAGS: PBOR, ETRN, SENV, IMCO
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005